



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/168842

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 17, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a telephonic hearing was held on October 06, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency has issued petitioner all of the FS to which she is entitled for October 2015.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Pang Thao Xiong, IM Spec. Adv.  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received \$50 in FS in September 2015.

3. Petitioner's household income in October 2015 was \$1207.
4. Petitioner's countable medical expenses were \$104.90 in October 2015.
5. On September 14, 2015 the agency issued a notice of decision to the petitioner stating that effective October 1, 2015 her FS would be reduced to \$16. Exhibit 3.

### **DISCUSSION**

FS benefits are calculated pursuant to 7 C.F.R. §273.9. The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.2. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>.

In calculating the petitioner's allotment, the agency must follow the procedure set by the federal FS regulations, which is restated in the *FS Handbook*. In determining the amount of FS to be issued each month, the agency must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. § 273.9(b). From the gross household income, the following permissible deductions as discussed in the *FoodShare Handbook*, §4.6.1 are allowed: a standard deduction, an earned income deduction, a medical expenses deduction, a child support payment deduction, a dependent care expense deduction, and a shelter expense deduction. Some FS groups are not allowed a deduction for some expenses and some expenses are not always deducted in full. Petitioner received the standard deduction, the medical expense deduction and the shelter expense deduction. See Exhibit 4 (FS budget for October).

Petitioner's concern at hearing was the decrease in FS to \$16. The reason the FS decreased was due in part to the agency's error in giving her a double medical expense deduction in September. Thus, when the agency confirmed the medical expense for October, and finally got it right, it cause a decrease in her FS.

The other reason that petitioner's FS decreased in October was due to her household income. There was no dispute that her income was \$1207 for October. This was also a change from what it had been budgeting in previous months.

The agency presented the corrected budget screens to show how it determined petitioner's FS for October. I have reviewed the information and find no errors in the computations. Petitioner provided no evidence to show that the computations were incorrect. However, she was understandably confused with the reduction given the agency's previous budgeting errors. Petitioner hung up on the hearing before this administrative law judge closed the hearing, and therefore no other evidence was adduced from the petitioner. However, her testimony prior to hanging up was that her RCAC plan provides for three meals a day. Thus, under this policy she would not even have been eligible for the FS she received in October at all, however, I will not disturb the agency's issuance of \$16 in FS.

I remind the petitioner that if her income decreases, has more medical expenses, or has other changes to her household, she must report and verify that to the agency so her FS can be redetermined.

I add, assuming petitioner feels that this is not a fair determination, that I do not have equitable powers and cannot deviate from what law and policy dictate. See Oneida County v. Converse, 180 Wis.2d 120, 125, 508 N.W.2d 416 (1993). In other words, I cannot change the outcome here because it would be fair.

### **CONCLUSIONS OF LAW**

The agency has issued petitioner all of the FS to which she is entitled for October 2015.

**THEREFORE, it is**

**ORDERED**

The petition for review herein is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 21st day of October, 2015

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\sKelly Cochran  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 21, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability